

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

-v.-

AAFIA SIDDIQUI,

Defendant.

: ORDER

: 08 Cr. 826 (RMB)

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:

WHEREAS, there is a competency proceeding pending
before the Court in the above-captioned matter;

WHEREAS, a competency hearing (the "Competency
Hearing") has been set for ~~July 6, 2009~~ ^{9:00 AM on};

WHEREAS, one of the forensic psychiatrists who
evaluated the defendant (Dr. Leslie Powers) has submitted reports
to the Court on November 17, 2008 and May 11, 2009, the latter
(dated May 4, 2009) finding the defendant competent to stand
trial;

WHEREAS, the parties have informed the Court, and the
Court so finds, that Dr. Leslie Powers will be unavailable to
testify in person at the July 6, 2009 competency hearing;

WHEREAS, the Government intends to rely, in part, on
Dr. Powers' May 11, 2009 report at the competency hearing, and
the defendant has requested the opportunity to cross-examine Dr.
Powers;

WHEREAS, the parties have informed the Court that, in
light of these circumstances, they have agreed to conduct a

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deposition (the "Deposition") of Dr. Powers in advance of the competency hearing at the Metropolitan Detention Center before a videographer or stenographer;

WHEREAS, the parties have informed the Court that they have agreed to conduct the Deposition (if necessary) in the defendant's absence;

WHEREAS, the parties have informed the Court that the defendant waives any objection under the Confrontation Clause regarding the taking of the Deposition in the defendant's absence or regarding the Deposition's subsequent admissibility at the competency hearing; and

WHEREAS, the parties have informed the Court that, subject to any rulings on objections, they have agreed that the videotape and/or transcript of the Deposition should be admitted as an exhibit at the competency hearing;

THE FOLLOWING IS HEREBY ORDERED:

1. The parties may conduct the Deposition of Dr. Leslie Powers prior to the competency hearing;

2. The Deposition will be conducted at a location, and before a videographer and/or stenographer, agreed upon by the parties; *[and in accordance w/ the BOP regulations that may apply]*

3. The Deposition will consist of the cross-examination of Dr. Powers, as well as any redirect examination of Dr. Powers, the timing of which will be agreed upon by the parties;

4. In the event the defendant refuses to attend the Deposition, the parties may conduct the Deposition in the defendant's absence;

5. The defendant waives any objection under the Confrontation Clause to the taking of the Deposition in the defendant's absence or to its subsequent admissibility at the competency hearing;
(see letter dated 6/23/09 from Mr. Rankin)

6. After the Deposition is taken, the parties may, subject to any reserved objections, submit a copy of the videotape or transcript of the Deposition, along with any exhibits introduced during the Deposition, to the Court on or before July 6, 2009; and

7. The videotape or transcript of the Deposition will be admitted as an exhibit at the competency hearing, subject to any rulings on objections by the Court.

Dated: New York, New York

June 29, 2009

SO ORDERED:

RMiB

HONORABLE RICHARD M. BERMAN
United States District Judge

8. Counsel may make 5-10 minute opening statements at the July 6, 2009 hearing outlining their respective positions on competency + indicating how their positions will be established.

RMiB